Paper No. 5

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In re Application of   :
Robert B. Rieveley   :
Application No. 08/804,903   :   ON PETITION
Filed: February 24, 1997   :
Attorney Docket No. 22-46836   :

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 1998, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 6, 1997. The Notice set a period for response of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 7, 1997.

Petitioner asserts that the delay was caused by nonreceipt of the Notice to File Missing Parts of Application dated May 6, 1997. A review of the written record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity there is a strong presumption that the Notice was properly mailed to practitioner at the address of record.

Furthermore, as illustrated in the postcard receipt dated February 24, 1997, the declaration is marked as "unsigned." This should have alerted petitioner that the filing of February 24, 1997 was insufficient and that a signed declaration was required.

Accordingly, the fee to file the instant petition under 37 CFR 1.137(b) is required and may not be refunded.

This file will be forwarded to the Initial Patent Examination Division for further processing.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

Brian Hearn
Special Projects Examiner
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  for Patent Policy and Projects